

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Anthony James Moore,)	
)	
Plaintiff,)	ORDER
)	
)	
vs.)	
)	
Fargo Police Department,)	Case No. 1:06-cv-095
)	
Defendant.)	

Plaintiff is suing the defendant in this action seeking an injunction requiring the defendant to turn over certain DNA evidence. The court conducted a conference with the parties via telephone on February 21, 2007, to discuss scheduling and the possibilities of settlement. The plaintiff has recently filed a motion for summary judgment.

During the conference, the plaintiff clarified that the only relief he seeks are the written reports regarding: (1) DNA results of biological test performed on himself and his victim in an underlying state court prosecution; and (2) DNA profile genotype specimens. The defendant responded that it required additional time to locate and review the requested material and to make a decision regarding whether or not it is willing to simply turn the material over to the plaintiff and avoid the necessity of further proceedings in this matter. If not, the defendant indicated it would be in a position to respond to the plaintiff's summary judgment motion within the thirty day time period normally accorded motions for summary judgment. Both parties indicated that discovery is not required in this case.

Given the nature of the case, the court will dispense with its typical scheduling and discovery order. If the defendant is unwilling or unable to turn over the requested information, the case can hopefully can be resolved upon plaintiff's motion for summary judgment and any cross-motion that

the defendant may wish to bring. However, if not, the court will issue a separate order scheduling a one day trial, which will be cancelled if the case is resolved upon by motion.

Based on the foregoing, it is hereby **ORDERED** as follows:

1. The defendant shall have until March 13, 2007, to submit a report updating the court of the status of its review and outlining what objections, if any, it has to disclosing the requested materials to the plaintiff.
2. If the defendant for any reason is unwilling or is unable to turn over the material requested by the plaintiff, the defendant shall respond to plaintiff's pending summary judgment motion within time provided under the rules for responding to summary judgment motions.
3. A one day court trial will be scheduled, but will later be cancelled if the material the plaintiff seeks is voluntarily turned over by the defendant or if the case is otherwise resolved by motion.

IT IS SO ORDERED.

Dated this 26th day of February, 2007.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr.

United States Magistrate Judge